The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 53

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Filed
20 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

IAN **FRAZER** and JIAN ZHOU,

Junior Party
(Application 08/185,928)

v.

C. RICHARD **SCHLEGEL** and A. BENNETT JENSON,

Senior Party
(Application 08/216,506).

Patent Interference 104,776 (Nagumo)

Before: MCKELVEY, Senior Administrative Patent Judge, LANE, TIERNEY, MOORE, and NAGUMO, Administrative Patent Judges.

PER CURIAM.

Judgment — Merits — Bd.R. 127

I. Introduction

1. The sole count in this interference is Count 2.

2. Frazer has been accorded the benefit for priority of the filing date of its PCT application PCT/AU92/00364 (FX 1028),

which is 20 July 1992 (Frazer's date of constructive reduction to practice).

3. Schlegel has been accorded the benefit for priority of the filing date of its original application, 07/903,109 (SX 2041), which is 25 June 1992 (Schlegel's date of constructive reduction to practice).

4. For the reasons given in the opinion for the Board authored by Administrative Patent Judge Nagumo (Paper 263, **Decision — Frazer Priority Date — Bd.R. 125(a)**), which is mailed on the same date as this judgment, we held that Frazer failed to prove that it conceived or actually reduced to practice an embodiment within the scope of Count 2 prior to Schlegel's date of constructive reduction to practice.

5. Moreover, we found that Frazer failed to prove reasonable diligence by activities in the United States from any alleged date of conception until a reduction to practice.

6. Frazer failed to prove that Schlegel did not have a constructive reduction to practice of Count 2 in its original application filed on 25 June 1992.

7. Thus, Frazer has failed to overcome the presumption that Schlegel, as the senior party, is the first inventor.

8. Priority is awarded as to Count 2 **against** Frazer.

9. The net effect of the judgments in interferences 104,771 through 104,776 on each of the involved parties is summarized in Appendix 1, which is attached to this judgment.

IV. Order

For the reasons given above, it is

ORDERED that priority is awarded **against** Ian Frazer and Jian Zhou as to Count 2, the sole count in this interference;

FURTHER ORDERED that Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 97-100 of application 08/185,928.

For the reasons given in the Decision on Preliminary Motions, Paper 198, it is

FURTHER ORDERED that Ian Frazer and Jian Zhou are not entitled to a patent to claims 89-96 of application 08/185,928;

FURTHER ORDERED that C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent containing claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

FURTHER ORDERED that the prior decisions in this interference are merged with this Judgment.

FURTHER ORDERED that a copy of Paper 263, Decision – Frazer Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/185,928 and application 08/216,506.

FURTHER ORDERED that a copy of Paper 262, Decision – Schlegel Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/216,506 and application 08/185,928.

FURTHER ORDERED that a copy of this Judgment shall be entered in the files of application 08/185,928 and application 08/216,506.

FURTHER ORDERED that if there is a settlement, the attentions of the parties are directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

FURTHER ORDERED that, if an appeal under 35 U.S.C. § 141, or a civil action under 35 U.S.C. § 146 is taken by any party in this interference, that party shall file a copy of the notice of the appeal with the Board in this interference.

/ss/ Fred E. McKelvey FRED E. McKELVEY, Senior Administrative Patent Judge	)
/ss/ Sally Gardner Lane SALLY GARDNER LANE Administrative Patent Judge	)
/ss/ Michael P. Tierney MICHAEL P. TIERNEY Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
/ss/ James T. Moore JAMES T. MOORE Administrative Patent Judge	)
/ss/ Mark Nagumo MARK NAGUMO Administrative Patent Judge	)

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APPENDIX 1

Introduction

This appendix summarizes the net effect of the judgments in interferences 104,771 through 104,776 on each of the parties. This appendix is an executive summary only: the judgments and orders in each interference should be consulted for the legally binding determinations of the Board.

Interferences 104,771 through 104,776 are the six two-party interferences that were declared coincident with the administrative termination of the four-party interference 103,929.

Each party in each of the new interferences was authorized to serve each party in the original interference with copies of any papers filed in any of the new two-party interferences. Each two-party interference, however, was a proceeding complete unto itself, and was decided on the basis of the motions and arguments raised and evidence presented in that interference. Thus, a motion for judgment raised by party A against party B in interference 1 might be granted if A carried its burden of proof, while a motion for the same judgment, raised by party C against party B in interference 2, might be denied if C failed to carry its burden of proof. Similarly, if party D did not raise the motion for judgment against party B in interference 3, D would

not be advantaged and B would not be disadvantaged in interference 3 by the decision in interference 1.

Upon issuance of judgments in all the interferences, however, each party is subject to the logical union, in the Boolean-algebraic sense, of all the judgments. Simply put, a judgment in any interference that claim X is unpatentable to party A precludes that party from obtaining a patent to that claim.

Judgments in the Interferences

104,771: Rose v. Lowy

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,772: Rose v. Schlegel

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,773: Rose v. Frazer

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,774: Lowy v. Schlegel

Adverse judgment as to priority was entered against junior party Lowy.

Accordingly, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 48 and 49 of application 08/484,181.

104,775: Lowy v. Frazer

Adverse judgment as to priority was entered against junior party Lowy.

As a result of this judgment and the Decision on Preliminary Motions, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181.

As a result of the Decision on Preliminary Motions, modified by the Decision on Reconsideration (Paper 229), Ian Frazer and Jian Zhou are not entitled to a patent to claims 91, 92, 95, and 96 of application 08/185,928.

104,776: Frazer v. Schlegel

Adverse judgment as to priority was entered against junior party Frazer.

As a result of this judgment and the Decision on Preliminary Motions, Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928.

As a result of the Decision on Preliminary Motions, C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Summary

As a result of decisions in this interference:

Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89, and 91 of application 08/207,309;

Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181;

Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928;

C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Thus, Schlegel may, subject to the determination of any civil actions or appeals arising from the decisions in the interferences to which it is a party, continue to seek a patent to claims 14, 16, and 23-25 of application 08/216,506.

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 207

Filed by: Merits Panel
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Filed
20 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

DOUGLAS R. LOWY, JOHN T. SCHILLER and REINHARD KIRNBAUER,

Junior Party,
(Application 08/484,181)

v.

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Senior Party
(Application 08/216,506)

Patent Interference 104,774 (NAGUMO)

Before: McKELVEY, Senior Administrative Patent Judge, LANE, TIERNEY, MOORE, and NAGUMO, Administrative Patent Judges.

PER CURIAM.

Judgment — Merits — Bd.R. 127

I. Introduction

1. The sole count in this interference is Count 1.

2. Lowy has been accorded the benefit for priority of the filing date of its application 07/941,371, which is 3 September 1992 (Lowy's date of constructive reduction to practice).

3. Schlegel has been accorded the benefit for priority of the filing date of its original application, 07/903,109 (SX 2041), which is 25 June 1992 (Schlegel's date of constructive reduction to practice).

4. For the reasons giving in the opinion for the Board authored by Administrative Patent Judge Moore (Paper 206, Decision – Lowy Priority Date – Bd.R. 125(a)), which is mailed on the same date as this judgment, we held that Lowy failed to prove that it conceived or actually reduced to practice an embodiment within the scope of Count 1 prior to Schlegel's date of constructive reduction to practice.

5. Thus, Lowy has failed to overcome the presumption that Schlegel, as the senior party, is the first inventor.

6. Priority is awarded as to Count 1 **against** Lowy.

7. The net effect of the judgments in interferences 104,771 through 104,776 on each of the involved parties is summarized in Appendix 1, which is attached to this judgment.

IV. Order

For the reasons given above, it is

ORDERED that priority is awarded **against** Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer as to Count 1, the sole count in this interference;

FURTHER ORDERED that Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 48 and 49 of application 08/484,181.

FURTHER ORDERED that the prior decisions in this interference are merged with this Judgment.

FURTHER ORDERED that a copy of Paper 206, Decision – Lowy Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/484,181 and application 08/216,506.

FURTHER ORDERED that a copy of Paper 205, Decision – Schlegel Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/484,181 and application 08/216,506.

FURTHER ORDERED that a copy of this Judgment shall be entered in the files of application 08/484,181 and application 08/216,506.

FURTHER ORDERED that if there is a settlement, the attentions of the parties are directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

FURTHER ORDERED that, if an appeal under 35 U.S.C. § 141, or a civil action under 35 U.S.C. § 146 is taken by any party in this interference, that party shall file a copy of the notice of the appeal with the Board in this interference.

/ss/ Fred E. McKelvey FRED E. McKELVEY, Senior Administrative Patent Judge	
/ss/ Sally Gardner Lane SALLY GARDNER LANE Administrative Patent Judge	BOARD OF PATENT APPEALS AND INTERFERENCES
/ss/ Michael P. Tierney MICHAEL P. TIERNEY Administrative Patent Judge	
/ss/ James T. Moore JAMES T. MOORE Administrative Patent Judge	
/ss/ Mark Nagumo MARK NAGUMO Administrative Patent Judge	

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APPENDIX 1

Introduction

This appendix summarizes the net effect of the judgments in interferences 104,771 through 104,776 on each of the parties. This appendix is an executive summary only: the judgments and orders in each interference should be consulted for the legally binding determinations of the Board.

Interferences 104,771 through 104,776 are the six two-party interferences that were declared coincident with the administrative termination of the four-party interference 103,929.

Each party in each of the new interferences was authorized to serve each party in the original interference with copies of any papers filed in any of the new two-party interferences. Each two-party interference, however, was a proceeding complete unto itself, and was decided on the basis of the motions and arguments raised and evidence presented in that interference. Thus, a motion for judgment raised by party A against party B in interference 1 might be granted if A carried its burden of proof, while a motion for the same judgment, raised by party C against party B in interference 2, might be denied if C failed to carry its burden of proof. Similarly, if party D did not raise the motion for judgment against party B in interference 3, D would

not be advantaged and B would not be disadvantaged in interference 3 by the decision in interference 1.

Upon issuance of judgments in all the interferences, however, each party is subject to the logical union, in the Boolean-algebraic sense, of all the judgments. Simply put, a judgment in any interference that claim X is unpatentable to party A precludes that party from obtaining a patent to that claim.

Judgments in the Interferences

104,771: Rose v. Lowy

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,772: Rose v. Schlegel

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,773: Rose v. Frazer

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,774: Lowy v. Schlegel

Adverse judgment as to priority was entered against junior party Lowy.

Accordingly, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 48 and 49 of application 08/484,181.

104,775: Lowy v. Frazer

Adverse judgment as to priority was entered against junior party Lowy.

As a result of this judgment and the Decision on Preliminary Motions, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181.

As a result of the Decision on Preliminary Motions, modified by the Decision on Reconsideration (Paper 229), Ian Frazer and Jian Zhou are not entitled to a patent to claims 91, 92, 95, and 96 of application 08/185,928.

104,776: Frazer v. Schlegel

Adverse judgment as to priority was entered against junior party Frazer.

As a result of this judgment and the Decision on Preliminary Motions, Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928.

As a result of the Decision on Preliminary Motions, C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Summary

As a result of decisions in this interference:

Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89, and 91 of application 08/207,309;

Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181;

Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928;

C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Thus, Schlegel may, subject to the determination of any civil actions or appeals arising from the decisions in the interferences to which it is a party, continue to seek a patent to claims 14, 16, and 23-25 of application 08/216,506.

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 103

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Filed
20 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ROBERT C. ROSE, WILLIAM BONNEZ
and RICHARD C. REICHMAN,

Junior Party,
(Application 08/207,309)

v.

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Senior Party.
(Application 08/216,506)

Patent Interference 104,772 (Nagumo)

Before: McKELVEY, Senior Administrative Patent Judge, LANE, TIERNEY, MOORE, and NAGUMO, Administrative Patent Judges.

PER CURIAM.

Judgment — Merits — Bd.R. 127

I. Introduction

1. The sole count in this interference is Count 1.

2. Rose has been accorded the benefit for priority of the filing date of application 08/028,517, which is 9 March 1993 (Rose's date of constructive reduction to practice).

3. Schlegel has been accorded the benefit for priority of the filing date of its original application, 07/903,109 (SX 2041), which is 25 June 1992.

4. For the reasons given in the opinion for the Board authored by Administrative Patent Judge Tierney (Paper 101, **Decision — Schlegel Priority Date — Bd.R. 125(a)**), which is mailed on the same date as this judgment, we held that Schlegel conceived an embodiment within the scope of the Count on or about **3 December 1991**, and actually reduced to practice an embodiment within the scope of Count 2 on or about **16 March 1992**.

5. For the reasons given in the opinion for the Board authored by Administrative Patent Judge Lane (Paper 195, Decision — Rose Priority Date — Bd.R. 125(a)), which is mailed the same date as this judgment, we held that Rose failed to prove that it conceived or actually reduced to practice an embodiment within the scope of Count 1 prior to Schlegel's date of constructive reduction to practice.

6. Moreover, we found that Rose failed to prove reasonable diligence from any alleged date of conception until a reduction to practice.

7. Thus, Rose has failed to overcome the presumption that Schlegel, as the senior party, is the first inventor.

8. Priority is awarded as to Count 1 **against** Rose.

9. The net effect of the judgments in interferences 104,771 through 104,776 on each of the involved parties is summarized in Appendix 1, which is attached to this judgment.

IV. Order

For the reasons given above, it is

ORDERED that priority is awarded **against** Robert C. Rose, William Bonnez, and Richard C. Reichman as to Count 1, the sole count in this interference;

FURTHER ORDERED that Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89, and 91, which are all the claims of application 08/207,309.

FURTHER ORDERED that the prior decisions in this interference are merged with this Judgment.

FURTHER ORDERED that a copy of Paper 195, Decision – Rose Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/207,309 and application 08/216,506.

FURTHER ORDERED that a copy of Paper 262, Decision – Schlegel Priority Date – Bd. R. 125(a), shall be entered in the files of application 08/207,309 and application 08/216,506.

FURTHER ORDERED that a copy of this Judgment shall be entered in the files of application 08/207,309 and application 08/216,506.

FURTHER ORDERED that if there is a settlement, the attentions of the parties are directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

FURTHER ORDERED that, if an appeal under 35 U.S.C. § 141, or a civil action under 35 U.S.C. § 146 is taken by any party in this interference, that party shall file a copy of the notice of the appeal with the Board in this interference.

/ss/ Fred E. McKelvey)
FRED E. McKELVEY, Senior)
Administrative Patent Judge)
)
)
/ss/ Sally Gardner Lane)
SALLY GARDNER LANE)
Administrative Patent Judge) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES
/ss/ Michael P. Tierney)
MICHAEL P. TIERNEY)
Administrative Patent Judge)
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/ss/ James T. Moore)
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MARK NAGUMO)
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APPENDIX 1

Introduction

This appendix summarizes the net effect of the judgments in interferences 104,771 through 104,776 on each of the parties. This appendix is an executive summary only: the judgments and orders in each interference should be consulted for the legally binding determinations of the Board.

Interferences 104,771 through 104,776 are the six two-party interferences that were declared coincident with the administrative termination of the four-party interference 103,929.

Each party in each of the new interferences was authorized to serve each party in the original interference with copies of any papers filed in any of the new two-party interferences. Each two-party interference, however, was a proceeding complete unto itself, and was decided on the basis of the motions and arguments raised and evidence presented in that interference. Thus, a motion for judgment raised by party A against party B in interference 1 might be granted if A carried its burden of proof, while a motion for the same judgment, raised by party C against party B in interference 2, might be denied if C failed to carry its burden of proof. Similarly, if party D did not raise the motion for judgment against party B in interference 3, D would

not be advantaged and B would not be disadvantaged in interference 3 by the decision in interference 1.

Upon issuance of judgments in all the interferences, however, each party is subject to the logical union, in the Boolean-algebraic sense, of all the judgments. Simply put, a judgment in any interference that claim X is unpatentable to party A precludes that party from obtaining a patent to that claim.

Judgments in the Interferences

104,771: Rose v. Lowy

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,772: Rose v. Schlegel

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,773: Rose v. Frazer

Adverse judgment as to priority was entered against junior party Rose.

Accordingly, Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89 and 91 of application 08/207,309.

104,774: Lowy v. Schlegel

Adverse judgment as to priority was entered against junior party Lowy.

Accordingly, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 48 and 49 of application 08/484,181.

104,775: Lowy v. Frazer

Adverse judgment as to priority was entered against junior party Lowy.

As a result of this judgment and the Decision on Preliminary Motions, Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181.

As a result of the Decision on Preliminary Motions, modified by the Decision on Reconsideration (Paper 229), Ian Frazer and Jian Zhou are not entitled to a patent to claims 91, 92, 95, and 96 of application 08/185,928.

104,776: Frazer v. Schlegel

Adverse judgment as to priority was entered against junior party Frazer.

As a result of this judgment and the Decision on Preliminary Motions, Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928.

As a result of the Decision on Preliminary Motions, C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Summary

As a result of decisions in this interference:

Robert C. Rose, William Bonnez, and Richard C. Reichman are not entitled to a patent to claims 35-37, 41-45, 48, 50, 52-57, 59, 61-65, 67-72, 75-77, 79-89, and 91 of application 08/207,309;

Douglas R. Lowy, John T. Schiller, and Reinhard Kirnbauer are not entitled to a patent to claims 34-49 of application 08/484,181;

Ian Frazer and Jian Zhou are not entitled to a patent to claims 65-80 and 89-100 of application 08/185,928;

C. Richard Schlegel and A. Bennett Jensen are not entitled to a patent to claims 1-3, 10, 12, 13, 18, 19, 21, 26, 46, 47, and 50-66 of application 08/216,506.

Thus, Schlegel may, subject to the determination of any civil actions or appeals arising from the decisions in the interferences to which it is a party, continue to seek a patent to claims 14, 16, and 23-25 of application 08/216,506.